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five business days before the date set for the hearing. You must state the reason(s) for your objection. The administrative law judge will make a decision on your objection either at the hearing or in writing before the hearing.

§ 405.320 Administrative law judge hearing procedures—general.

(a) *General.* A hearing is open only to you and to other persons the administrative law judge considers necessary and proper. The administrative law judge will conduct the proceedings in an orderly and efficient manner. At the hearing, the administrative law judge will look fully into all of the issues raised by your claim, will question you and the other witnesses, and will accept any evidence relating to your claim that you submit in accordance with § 405.331.

(b) *Conduct of the hearing.* The administrative law judge will decide the order in which the evidence will be presented. The administrative law judge may stop the hearing temporarily and continue it at a later date if he or she decides that there is evidence missing from the record that must be obtained before the hearing may continue. At any time before the notice of the decision is sent to you, the administrative law judge may hold a supplemental hearing in order to receive additional evidence, consistent with the procedures described below. If an administrative law judge requires testimony or other evidence from a medical, psychological, or vocational expert in your claim, the Medical and Vocational Expert Unit (see § 405.10 of this part) will provide an appropriate expert who has not had any prior involvement in your claim.

§ 405.325 Issues before an administrative law judge.

(a) *General.* The issues before the administrative law judge include all the issues raised by your claim, regardless of whether or not the issues may have already been decided in your favor.

(b) *New issues.* Any time after receiving the hearing request and before mailing notice of the hearing decision, the administrative law judge may consider a new issue if he or she, before de-

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ciding the issue, provides you an opportunity to address it. The administrative law judge or any party may raise a new issue; an issue may be raised even though it arose after the request for a hearing and even though it has not been considered in an initial or reconsidered determination.

(c) *Collateral estoppel—issues previously decided.* In one of our previous and final determinations or decisions involving you, but arising under a different title of the Act or under the Federal Coal Mine Health and Safety Act, we already may have decided a fact that is an issue before the administrative law judge. If this happens, the administrative law judge will not consider the issue again, but will accept the factual finding made in the previous determination or decision, unless he or she has reason to believe that it was wrong, or reopens the previous determination or decision under subpart G of this part.

§ 405.330 Prehearing conferences.

(a)(1) The administrative law judge, on his or her own initiative or at your request, may decide to conduct a prehearing conference if he or she finds that such a conference would facilitate the hearing or the decision on your claim. A prehearing conference normally will be held by telephone, unless the administrative law judge decides that conducting it in another manner would be more efficient and effective in addressing the issues raised at the conference. We will give you reasonable notice of the time, place, and manner of the conference.

(2) At the conference, the administrative law judge may consider matters such as simplifying or amending the issues, obtaining and submitting evidence, and any other matters that may expedite the hearing.

(b) The administrative law judge will have a record of the prehearing conference made.

(c) We will summarize in writing the actions taken as a result of the conference, unless the administrative law judge makes a statement on the record at the hearing summarizing them.

(d) If neither you nor the person you designate to act as your representative appears at the prehearing conference,

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and under § 405.380(b), you do not have a good reason for failing to appear, we may dismiss the hearing request.

§ 405.331 Submitting evidence to an administrative law judge.

(a) You should submit with your request for hearing any evidence that you have available to you. Any written evidence that you wish to be considered at the hearing must be submitted no later than five business days before the date of the scheduled hearing. If you do not comply with this requirement, the administrative law judge may decline to consider the evidence unless the circumstances described in paragraphs (b) or (c) of this section apply.

(b) If you miss the deadline described in paragraph (a) of this section and you wish to submit evidence during the five business days before the hearing or at the hearing, the administrative law judge will accept the evidence if you show that:

- (1) Our action misled you;
- (2) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from submitting the evidence earlier; or
- (3) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from submitting the evidence earlier.

(c) If you miss the deadline described in paragraph (a) of this section and you wish to submit evidence after the hearing and before the hearing decision is issued, the administrative law judge will accept the evidence if you show that there is a reasonable possibility that the evidence, alone or when considered with the other evidence of record, would affect the outcome of your claim, and:

- (1) Our action misled you;
- (2) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from submitting the evidence earlier; or
- (3) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from submitting the evidence earlier.

§ 405.332 Subpoenas.

(a) When it is reasonably necessary for the full presentation of a claim, an

administrative law judge may, on his or her own initiative or at your request, issue subpoenas for the appearance and testimony of witnesses and for the production of any documents that are relevant to an issue at the hearing.

(b) To have documents or witnesses subpoenaed, you must file a written request for a subpoena with the administrative law judge at least 10 days before the hearing date. The written request must:

- (1) Give the names of the witnesses or documents to be produced;
- (2) Describe the address or location of the witnesses or documents with sufficient detail to find them;
- (3) State the important facts that the witness or document is expected to show; and
- (4) Indicate why these facts could not be shown without that witness or document.

(c) We will pay the cost of issuing the subpoena and pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

(d) Within five days of receipt of a subpoena, but no later than the date of the hearing, the person against whom the subpoena is directed may ask the administrative law judge to withdraw or limit the scope of the subpoena, setting forth the reasons why the subpoena should be withdrawn or why it should be limited in scope.

(e) Upon failure of any person to comply with a subpoena, the Office of the General Counsel may seek enforcement of the subpoena under section 205(e) of the Act.

§ 405.333 Submitting documents.

All documents prepared and submitted by you, *i.e.*, not including medical or other evidence that is prepared by persons other than the claimant or his or her representative, should clearly designate the name of the claimant and the last four digits of the claimant's social security number. All such documents must be clear and legible to the fullest extent practicable and delivered or mailed to the administrative law judge within the time frames that he or she prescribes. Documents that are typewritten or produced with word